

LOCAL GOVERNMENT AND TAXATION

ADMINISTRATIVE RULES REVIEW

Table of Contents

2007 Legislative Session

IDAPA 35 - IDAHO STATE TAX COMMISSION

35.01.02 - Sales and Use Tax Administrative Rules

Docket No. *35-0102-0603*2

35.01.03 - Property Tax Administrative Rules

Docket No. *35-0103-0608*5

LOCAL GOVERNMENT AND TAXATION

IDAPA 35 - IDAHO STATE TAX COMMISSION

35.01.02 - SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-0603

NOTICE OF RULEMAKING - TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is **October 1, 2006**.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 63-105, 63-3624, 63-3635, and 63-3039, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

Idaho Code Section 63-3619 requires the Tax Commission to publish schedules showing the amount of tax to be collected on sales involving fractions of a dollar. The dates for the schedules in sales tax rule 068 will be incorrect on October 1, 2006, because of the tax rate increase recently enacted by the legislature.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(2), the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

In compliance with deadlines in amendments to governing law or federal programs.

FEE SUMMARY: Pursuant to Section(s) 67-5226(2), the Governor has found that the fee or charge being imposed or increase is justified and necessary to avoid immediate danger and the fee is appropriate for the following reasons: N/A

FISCAL IMPACT: No fiscal impact to state government.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Jim Husted at (208) 334-7500.

DATED this 30th day of October, 2006.

Jim Husted
Tax Policy Supervisor
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7500

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE

LOCAL GOVERNMENT AND TAXATION

IDAHO STATE TAX COMMISSION Sales and Use Tax Administrative Rules

Docket No. 35-0102-0603
PENDING RULE

068. COLLECTION OF TAX (RULE 068).

01. In General. Idaho Sales Tax is an excise tax which is imposed upon each sale at retail. The tax is computed at the time of each sale and the tax on the total sales for the reporting period, usually monthly, will be reported and paid on or before the due date as established by Rule 105 of these rules. (4-11-06)

02. Sales Tax to Be Collected by Retailer. Sales tax shall be collected by the retailer from the customer. The tax will be computed on and collected for all credit, installment, conditional or similar sales when made or, in the case of rentals, when the rental is charged. (7-1-93)

03. Computation of Tax. The retailer will compute the tax upon the total sale to a purchaser at a given time and not upon each individual item purchased. (7-1-93)

04. Bracket System for Five Percent Tax Rate. The following schedule is to be used in determining the amount of tax to be collected by a retailer at the time of sale ~~beginning~~ if the sales tax rate is 5%. The 5% tax rate was in effect from July 1, 2005 through September 30, 2006. ~~(4-11-06)(10-1-06)T~~

- a. Multiply five cents (\$0.05) for every whole dollar included in the sale, and (7-1-93)
- b. Add for each additional fractional dollar amount of sale the corresponding tax below:

Dollar Amount of Sale	Tax
0.00 - 0.05	.00
0.06 - 0.25	.01
0.26 - 0.45	.02
0.46 - 0.65	.03
0.66 - 0.85	.04
0.86 - 0.99	.05

However, sales to a total amount of eleven cents (\$0.11) or less are exempt from tax. (7-1-93)

05. Bracket System for Six Percent Tax Rate. Beginning ~~May 1, 2003, and ending June 30, 2005~~ October 1, 2006, the sales tax rate is six percent (6%). The following schedule is to be used in determining the amount of tax to be collected by a retailer at the time of sale. ~~(4-11-06)(10-1-06)T~~

- a. Multiply six cents (\$0.06) for every whole dollar included in the sale, and (3-20-04)

LOCAL GOVERNMENT AND TAXATION

IDAHO STATE TAX COMMISSION
Sales and Use Tax Administrative Rules**Docket No. 35-0102-0603**
PENDING RULE

b. Add for each additional fractional dollar amount of sale the corresponding tax below:

Dollar Amount of Sale	Tax
0.00 - 0.03	.00
0.04 - 0.20	.01
0.21 - 0.37	.02
0.38 - 0.53	.03
0.54 - 0.70	.04
0.71 - 0.87	.05
0.88 - 0.99	.06

However, sales to a total amount of eleven cents (\$0.11) or less are exempt from tax. (3-20-04)

06. Tax to Be Separately Displayed. The amount of tax collected by the retailer must be displayed separately from the list price, marked price, the price advertised in the premises or other price on the sales slip or other proof of sale. The retailer may retain any amount collected under the bracket system which is in excess of the amount of tax for which he is liable to the state during the period as compensation for the work of collecting that tax. (7-1-93)

07. Reimbursement of Tax From the Purchaser to the Seller. If the seller does not collect the sales tax at the time of the sale and it is later determined that sales tax should have been collected, the seller can then collect the sales tax from the purchaser if the delinquent tax has been paid by the seller. The legal incidence of the tax is intended to fall upon the buyer, Section 63-3619, Idaho Code. (7-1-93)

a. Example: The Commission determines that certain nontaxed sales by a seller are subject to sales tax and that the seller did not collect the tax and did not have documentation supporting exemption from the sales tax. The Commission issued a Notice of Deficiency Determination to the seller imposing the tax and interest. The assessment then paid by the seller entitles the seller to reimbursement from the buyer. (7-1-93)

b. The seller is also entitled to collect reimbursement from the buyer of the interest paid on the taxes assessed. (7-1-93)

c. The seller is not entitled to reimbursement from the buyer for penalties imposed as part of the assessment against the seller. (7-1-93)

d. The receivable established by the seller seeking reimbursement from the purchaser is not subject to expiration of the statute of limitations provided in Section 63-3633, Idaho Code. (7-1-93)

LOCAL GOVERNMENT AND TAXATION
IDAPA 35 - IDAHO STATE TAX COMMISSION
35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-0608
NOTICE OF RULEMAKING - TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 1, 2006.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 63-105A, Idaho Code, and the repeal of Section 63-602FF, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

Property Tax Administrative Rule 803 is being amended to implement the new legislation enacted during the First Extraordinary Session of the Fifty-Eighth Legislature, correcting procedures for certification of property tax fund levies for school districts in 2006.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(2), the Governor has found that temporary adoption of the rule is appropriate for the following reasons: In compliance with deadlines in amendments to governing law.

FEE SUMMARY: Pursuant to Section(s) 67-5226(2), the Governor has found that the fee or charge being imposed or increase is justified and necessary to avoid immediate danger and the fee is appropriate for the following reasons: N/A

FISCAL IMPACT: Not applicable, this rule does not result in any measurable fiscal impact beyond that resulting from the legislation.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Alan Dornfest at (208) 334-7500.

DATED this 6th day of October, 2006.

Alan Dornfest
Tax Policy Supervisor
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7500

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE

LOCAL GOVERNMENT AND TAXATION

IDAHO STATE TAX COMMISSION
Property Tax Administrative Rules

Docket No. 35-0103-0608
Temporary Rule**803. BUDGET CERTIFICATION -- DOLLAR CERTIFICATION FORM (L-2 FORM) (RULE 803).**

Sections 63-602G(5), 63-803, 63-3029B(4), and 63-3638(10), Idaho Code. (4-6-05)

01. Definitions. (4-5-00)

a. “Dollar Certification Form” (L-2 Form). The Dollar Certification Form (L-2 Form) is the form used to submit to the State Tax Commission the budget request from each Board of County Commissioners for each taxing district. This form shall be presumed a true and correct representation of the budget previously prepared and approved by a taxing district. The budget will be presumed adopted in accordance with pertinent statutory provisions unless clear and convincing documentary evidence establishes that a budget results in an unauthorized levy and action as provided in Section 63-809, Idaho Code. (4-6-05)

b. “Prior Year’s Market Value for Assessment Purposes.” Prior year’s market value for assessment purposes shall mean the value used to calculate levies during the immediate prior year. This value shall be used for calculating the permanent budget increase permitted for cities, pursuant to Section 63-802(1)(f), Idaho Code, and for fire districts, pursuant to Section 31-1420(3), Idaho Code. (4-5-00)

c. “Annual Budget.” For the purpose of calculating dollar amount increases permitted pursuant to Section 63-802(1), Idaho Code, the annual budget shall include any amount approved as a result of an election held pursuant to Sections 63-802(1)(f), 63-802(1)(g), or 31-1420(3), Idaho Code, provided that said amount is certified on the L-2 Form as part of the budget request. If the amount certified does not include the entire amount approved as a result of the election held pursuant to Sections 63-802(1)(f), 63-802(1)(g), and 31-1420(3), then the amount not used shall be added to the foregone increase amount determined for the taxing district. See the following example.

CERTIFIED PROPERTY TAX BUDGET LIBRARY DISTRICT*				
	FY 1999	FY 2000	FY 2001	FY 2002
Annual Budget	\$10,000	\$10,000	\$10,700	\$11,621
3% Increase	\$0	\$300	\$321	\$349
Subtotal	\$10,000	\$10,300	\$11,021	\$11,970
1999 Election Amount	\$0	\$400 of \$1,000	\$600 of \$1,000	\$0
Certified Budget	\$10,000	\$10,700	\$11,621	\$11,970

*The Library District with zero dollars (\$0) in value for new construction and/or annexation approves an additional budget amount of one thousand dollars (\$1,000) in 1999, but only certifies four hundred dollars (\$400) for the year 2000. Note the example does not account for any foregone amount resulting from the district's decision to not increase its budget by three percent (3%) in 1997, 1998 or 1999. (4-6-05)

d. “Property Tax Funded Budget.” Property tax funded budget means that portion of

LOCAL GOVERNMENT AND TAXATION

IDAHO STATE TAX COMMISSION
Property Tax Administrative Rules**Docket No. 35-0103-0608**
Temporary Rule

any taxing district's budget certified to the Board of County Commissioners, approved by the State Tax Commission, and subject to the limitations of Section 63-802, Idaho Code. (3-20-04)

e. "Recovered/Recaptured Property Tax List." Recovered/recaptured property tax list means the report sent by the county auditor to the appropriate taxing district(s)/unit(s) by the first Monday in August and to the State Tax Commission with the L-2 Forms, listing the amount of revenue distributed to each appropriate taxing district/unit as recovery of property tax under Section 63-602G(5), Idaho Code, and/or as recapture of property tax under Section 63-3029B(4), Idaho Code, during the twelve (12) month period ending June 30 each year. (4-6-05)

f. "Taxing District/Unit." Taxing district/unit means any governmental entity with authority to levy property taxes as defined in Section 63-201, Idaho Code, and those noncountywide governmental entities without authority to levy property taxes but on whose behalf such taxes are levied or allocated by an authorized entity such as the county or city for such entities as county road and bridge funds or urban renewal agencies, respectively. (4-6-05)

02. Budget Certification. The required budget certification shall be made to each Board of County Commissioners representing each county in which the district is located by submitting the completed L-2 Form prescribed by the State Tax Commission. (4-6-05)

03. Budget Requested Documents. Each Board of County Commissioners shall submit to the State Tax Commission a budget request for each taxing district in the county that certifies a budget request to finance the property tax funded portion of its annual budget. The Board of County Commissioners shall not submit other documents unless requested to do so by the State Tax Commission. Documents not to be submitted to the State Tax Commission unless requested include newspaper advertisements, school district budget books, entire budget documents, other than the budget request, and similar documents. (4-6-05)

04. L-2 Form Contents. Each taxing district or unit completing an L-2 Form shall include the following information on or with this form. (3-20-04)

a. "Department or Fund." Identify the department or fund for which the taxing district is requesting a budget for the current tax year. (4-5-00)

b. "Total Approved Budget." List the dollar amount of the total budget for each department or fund identified. The amounts must include all money that a taxing district has a potential to spend at the time the budget is set, regardless of whether funds are to be raised from property tax. (4-5-00)

c. "Cash Forward Balance." List any money brought forward from a prior year to help fund the approved budget. Cash forward balance (Column 3) is the difference between the total approved budget (Column 2) and the sum of amounts reported as other revenue not shown in Column 5 (Column 4), agricultural equipment property tax replacement (Column 5), and balance to be levied (Column 6). (3-15-02)

d. "Other Revenue not Shown in Column 5." List the revenue included in the total approved budget to be derived from sources other than property tax or money brought forward from a prior year. For example, sales tax revenue is included. (3-15-02)

LOCAL GOVERNMENT AND TAXATION

IDAHO STATE TAX COMMISSION Property Tax Administrative Rules

Docket No. 35-0103-0608
Temporary Rule

- e. “Property Tax Replacement.” Report the sum of only the following: (4-6-05)
- i. The amount of money received annually under Section 63-3638(10), Idaho Code, as replacement revenue for the agricultural equipment exemption under Section 63-602EE, Idaho Code (For school districts, the ~~amount of money to be included is only the appropriate amount of such money to be subtracted, as provided in Subsection 803.06 of this rule, not all such money~~ reduction for this replacement revenue must be first from property tax funded funds subject to the limitations of Section 63-802, Idaho Code, then from other property tax funded budgets.); ~~(4-6-05)(9-1-06)T~~
- ii. The amount of money received as recovery of property tax exemption under Section 63-602G(5), Idaho Code, and listed on the “Recovered/recaptured property tax list”; (4-6-05)
- iii. The amount of money received as recapture of the property tax benefit under Section 63-3029B(4), Idaho Code, and listed on the “Recovered/recaptured property tax list”; and (4-6-05)
- iv. The appropriate amount of money listed on the statement and distributed to the county and each appropriate city under Section 63-2603, Idaho Code, as county property tax relief and detention facility debt retirement. (4-6-05)
- f. “Balance to be Levied.” Report the amount of money included in the total approved budget to be derived from property tax. (3-15-02)
- g. Other Information. Provide the following additional information. (4-5-00)
- i. The name of the taxing district or unit; (3-20-04)
- ii. The date of voter approval (if required by statute) and effective period for any new or increased fund which is exempt from the budget limitations in Section 63-802, Idaho Code; (4-5-00)
- iii. The signature, date signed, printed name, address, and phone number of an authorized representative of the taxing district; and (5-3-03)
- iv. For a hospital district which has held a public hearing, a signature certifying such action. (4-5-00)
- h. Attached Information. Other information submitted to the county auditor with the L-2 Form. (4-6-05)
- i. For all taxing districts, L-2 worksheet. (3-20-04)
- ii. For newly formed recreation or auditorium districts, a copy of the petition forming the district showing any levy restrictions imposed by that petition. (3-20-04)

LOCAL GOVERNMENT AND TAXATION

IDAHO STATE TAX COMMISSION
Property Tax Administrative Rules**Docket No. 35-0103-0608**
Temporary Rule

iii. For any new ballot measures (bonds, overrides, permanent overrides, supplemental maintenance and operations funds, and plant facility funds), notice of election and election results. (3-20-04)

iv. Voter approved fund tracker. (3-20-04)

v. For fire districts, a copy of any new agreements with utility companies providing for payment of property taxes by that utility company to that fire district. (3-20-04)

vi. For any city with city funded library operations and services at the time of consolidation with any library district, each such city must submit a certification to the Board of County Commissioners and the Board of the Library District reporting the dedicated portion of that city's property tax funded library fund budget and separately reporting any portion of its property tax funded general fund budget used to fund library operations or services at the time of the election for consolidation with the library district. (3-20-04)

vii. For any library district consolidating with any city that had any portion of its property tax funded budget(s) dedicated to library operations or services at the time of the election for consolidation, each such library district must submit to the Board of County Commissioners a copy of the certification from that city reporting the information provided for in Subparagraph 803.04.h.vi., of this rule. (4-6-05)

05. Special Provisions for Fire Districts Levying Against Operating Property. To prevent double counting of public utility property values, for any year following the first year in which any fire district increases its budget using the provision of Section 63-802(2), Idaho Code, such fire district shall not be permitted further increases under this provision unless the following conditions are met: (3-30-01)

a. The fire district and public utility have entered into a new agreement of consent to provide fire protection to the public utility; and (3-30-01)

b. Said new agreement succeeds the original agreement; and (3-30-01)

c. In the first year in which levies are certified following the new agreement, the difference between the current year's taxable value of the consenting public utility and public utility value used in previous budget calculations made pursuant to this section is used in place of the current year's taxable value of the consenting public utility. (3-30-01)

06. Special Provisions for Property Tax Replacement Pursuant to Section 63-3638, Idaho Code. Property tax replacement monies received pursuant to Section 63-3638, Idaho Code, must be reported on the L-2 Form. For all taxing districts except school districts, these monies must be subtracted from the "balance to be levied". ~~For school districts, only "appropriate property tax replacement monies" are to be subtracted.~~ The reduced balance shall be used to compute levies, but the maximum amount permitted pursuant to Sections 63-802 and 33-802, Idaho Code, shall be based on the sum of these property tax replacement monies and the amount actually levied, ~~or, for school districts, the sum of "appropriate property tax replacement monies" and the amount actually levied.~~ (4-6-05)(9-1-06)T

LOCAL GOVERNMENT AND TAXATION

IDAHO STATE TAX COMMISSION Property Tax Administrative Rules

Docket No. 35-0103-0608
Temporary Rule

~~a.~~ *“Appropriate property tax replacement monies” is determined only for school districts and means all property tax replacement monies received pursuant to Section 63-3638, Idaho Code, except an amount equal to four thousands (0.004) multiplied by the year 2000 value of property exempted in Section 63-602EE, Idaho Code. If the amount so determined is greater than the total amount of property tax replacement monies, no property tax replacement monies received pursuant to Section 63-3638, Idaho Code, shall be subtracted from the school district maintenance and operation’s (M&O) budget.* (4-6-05)

~~b.~~ **a.** After receipt from the counties of the year 2000 tax charges on property exempted in Section 63-602EE, Idaho Code, but no later than July 23, 2001, the State Tax Commission shall notify each county clerk of the amount of property tax replacement money to be paid to each taxing district in that county. Beginning in 2002 and thereafter, the State Tax Commission shall, by the fourth Monday of July, notify each county clerk if the amount of property tax replacement money to be paid to a taxing district ~~or the “appropriate amount of property tax replacement money” to be paid to any school district~~ changes from the amount paid in the preceding year. ~~In 2002, The State Tax Commission shall also notify each county clerk of the amount of the “appropriate property tax replacement monies” to be subtracted before computing the M&O levy for each school district~~ further notify each school district and each county clerk of the amount of property tax replacement money to be received by that school district pursuant to Section 63-3638(10), Idaho Code, as amended by the First Extraordinary Session of the Fifty-eighth Legislature, by September 1, 2006 and, beginning in 2007 and each year thereafter, the State Tax Commission shall, by the first Monday of May, notify the same parties of any changes in such property tax replacement monies for distribution in fiscal year 2008 and thereafter.

(5-3-03)(9-1-06)T

~~b.~~ **b.** By no later than the first Monday of August of each year, ~~except as provided in Paragraph 803.06.a. of this rule, each county clerk shall notify each appropriate taxing district or unit of the total amount of property tax replacement monies that will be received and shall further notify each school district of the appropriate amount to be subtracted before the M&O levy is computed.~~

(5-3-03)(9-1-06)T

~~c.~~ **c.** The subtraction required in Subsection 803.06 of this Rule may be from any fund(s) subject to the limitations of Section 63-802, Idaho Code, ~~and from school district maintenance and operation funds made pursuant to Section 33-802, Idaho Code.~~

(4-6-05)(9-1-06)T

~~d.~~ **d.** Levy limits shall be tested against the amount actually levied. (3-15-02)

07. Special Provisions for Library Districts Consolidating with Any City’s Existing Library Operations or Services. For any library district consolidating with any city’s existing library operations or services, the amount of the dedicated property tax funded general fund and library fund budgets certified by the city under Subparagraph 803.04.h.vi., of this rule shall be added to that library district’s property tax funded budget in effect at the time of the election for consolidation. This total shall be used as this district’s property tax funded budget for the most recent year of the three (3) years preceding the current tax year for the purpose of deciding the property tax funded budget that may be increased as provided by Section 63-802, Idaho Code. (4-6-05)

LOCAL GOVERNMENT AND TAXATION

IDAHO STATE TAX COMMISSION
Property Tax Administrative Rules

Docket No. 35-0103-0608
Temporary Rule

08. Special Provisions for Cities with Existing Library Operations or Services Consolidating with Any Library District. For any city with existing library operations or services at the time of consolidation with any library district, the amount of the dedicated property tax funded library fund budget included in the certification by the city under Subparagraph 803.04.h.vi., of this rule shall be subtracted from that city's total property tax funded budget in effect at the time of the election for the consolidation. This difference shall be used as this city's property tax funded budget for the most recent year of the three (3) years preceding the current tax year for the purpose of deciding the property tax funded budget that may be increased as provided by Section 63-802, Idaho Code. (4-6-05)

09. Special Provisions for Calculating Total Levy Rate for Taxing Districts or Units with Multiple Funds. Whenever the "Calculated Levy Rate" column of the L-2 Form indicates that a levy rate has been calculated for more than one (1) fund for any taxing district or unit, the "Column Total" entry must be the sum of the levy rates calculated for each fund. Prior to this summation, the levy rates to be summed must be rounded or truncated at the ninth decimal place. No additional rounding is permitted for the column total. (4-6-05)

10. Cross Reference for School Districts with Tuition Funds. For any school district certifying a tuition fund levy in 2006 or any year thereafter, see Section 33-1408, Idaho Code, as amended by the First Extraordinary Session of the Fifty-eighth Legislature, for clarification that the amount of property tax revenue for a tuition fund is not subject to the limitations of Section 63-802, Idaho Code. (9-1-06)T